



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RE APPLICATION

OF: NEIDLEIN ET AL.

SERIAL No. 09/857,067

FILED: MAY 21, 2001

FOR: 3-(HETEROCYCLYL)-SUBSTITUTED BENZOYLPYRAZOLES

Box: AF

CONFIRMATION No.: 9147

GROUP ART UNIT: 1616

EXAMINER: SABIHA N. QAZI

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Alexandria, Va 22313-1450, on:

February 05, 2004

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Signature

Date of Signature

Jason D. Voight

Jason D. Voight

February 05, 2004

Honorable Commissioner
for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY UNDER 37 C.F.R. §1.116

Sir:

In reply to the office action of February 03, 2004, it is respectfully requested that the following request for reconsideration be entered and considered in the above-identified application:

REQUEST FOR RECONSIDERATION

The Examiner has acknowledged that Claims 1 to 6, 10, 12 and 14 to 18 as set forth in Appendix II of Paper No. 10¹) are currently pending in this case.

The Examiner has also acknowledged that the data set forth in Dr. Witschel's Declaration²) dated April 17, 2003, show the unexpected

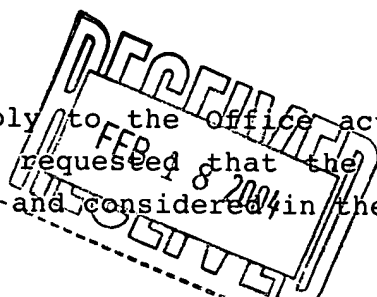
1) Supplemental Reply dated May 05, 2003 (date of the Certificate of Mailing).

2) Submitted with applicants' amendment of April 21, 2003 (date of the Certificate of Mailing).

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advantage which is achieved in accordance with applicants' invention due to the particular structural requirements of the compounds of applicants' formula (I). The Examiner has, however, maintained the rejection of applicants' claims pointing out that applicants' representative omitted to sign the amendment dated April 21, 2003, and that Dr. Witschel's Declaration was not a Declaration under Rule 132.

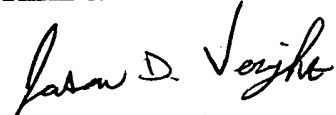
With regard to the inadvertently omitted signature of applicants' representative, it is herewith respectfully requested that the paper dated April 21, 2003, be entered in full and be given full consideration.

As concerns the Declaration of Dr. Witschel, the Examiner's position that the respective paper is not a Declaration under 37 C.F.R. §1.132 is not understood by applicants and their representative, and clarification of the Examiner's position is respectfully solicited. More particularly, it is respectfully requested that the Examiner specify any mandatory part of a Rule 132 declaration which is deemed to be missing in Dr. Witschel's Declaration. In this context it is noted that applicants and their representative have for years used a format similar to the format of Dr. Witschel's Declaration for declarations under Rule 132, and those declarations were regularly accepted by the U.S. PTO.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF



Jason D. Voight

Reg. No. 42,205

1350 Connecticut Ave, N.W.
Washington, D.C. 20036
(202) 659-0100

JDV/BAS